

**AGENDA of the  
Portfolio Committee: Infrastructure & Planning  
18 February 2020  
(Also the agenda for the Mayoral Committee Meeting: 26 February 2020)**

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12.

**A PORTION OF ERF 76 ZWELIHLE: RENEWAL OF LEASE OF MUNICIPAL PROPERTY TO NOMZAMO EDUCARE CENTRE**

7/2/3/2

A le Roux

Manager : Property Administration

7 January 2020

(028) 316 - 3724

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**1. Executive Summary**

To obtain approval to enter into a further lease agreement with Nomzamo Educare Centre for a period of 3 (THREE) years in respect of municipal property, being a portion of Erf 76 Zwelihle ( $\pm 1,028.3\text{m}^2$  in extent) situated at 28 Petros Ntlapo Street, Zwelihle, for the purpose of operating the Nomzamo Crèche. See the locality plan attached hereto marked Annexure "A".

**2. Service Delivery and Budget Implementation Plan - IGNITE**

Infrastructure and Planning  
Property Administration

**3. Compliance with Strategic Priorities**

Provision of democratic, accountable and ethical governance  
Creation and maintenance of a safe and healthy environment  
Promotion of tourism, economic and social development

**4. Delegated Authority**

Executive Mayor

**5. Legal Requirements**

- Municipal Asset Transfer Regulations (R. 878 of 2008)
- Administration of Immovable Property Policy of the Overstrand Municipality (2015)

**6. Background/Discussion/Evaluation/Conclusion**

**Background/Discussion**

Nomzamo Educare Centre has been using a portion of Erf 76 Zwelihle for several years and has developed the property during the years at own cost. Although the agreement preceding 2010 could not be found, the property has

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supposedly been used for close to 30 years. The previous agreement was entered into with The Treasurer Welfare Society, who was administratively managing the Nomzamo Crèche. Since then Nomzamo Crèche registered as an NPO and their registered name, Nomzamo Educare Centre, was entered into the NPO register on 5 July 2017. As the Crèche is now a registered NPO it was decided by their management that the new lease agreement, if approved, will be in the name of Nomzamo Educare Centre and not The Treasurer Welfare Society.

The last agreement was for a period of 9 (NINE) years and 11 (ELEVEN) months which expired on 31 December 2019.

Although the process for the renewal of the agreement was commenced with timeously, the process could unfortunately not be completed before expiry of the said agreement as our Department was waiting for the confirmation from Nomzamo Educare Centre that they want to renew their lease agreement and further due to internal processes taking longer than expected.

The Finance Department was requested to continue to levy the rental as Nomzamo Educare Centre is still in possession of the property.

A lease agreement has since been drafted (for administrative and audit purposes) with special conditions included in the agreement stipulating that the lease agreement is subject to a public participation process being followed and further subject to the Executive Mayor's approval (as delegated authority) allowing the Municipality to enter into the said long term agreement.

The portion of Erf 76 Zwelihle has been used by the Nomzamo Crèche for many years without any problems or complaints from the public. The municipal account is up to date.

The Nomzamo ECD delivers a very important service to the community of Zwelihle and has proven their commitment and sustainability

### **Evaluation**

A: Administration of Immovable Property Policy of the Overstrand Municipality:

The following conditions of the said Policy will apply:

**Paragraph 17: “Taking into consideration the nature and duration of the lease to be entered into, the leasing of immovable property may be affected by means of either:**

**17.1 a competitive process, which may include a closed or public**

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***tender or proposal call, specifically in circumstances listed in paragraph 18 below; or  
17.2 a direct lease.***

The property is not classified as a business site and Nomzamo Educare Centre (a registered non-profit organisation) has been using the said property successfully for the last approximately 30 years and has proven their commitment and sustainability. Taking into consideration the nature of the lease and benefit to the community, the property can be leased directly to Nomzamo Educare Centre without following a competitive process.

**Paragraph 20.1: *“The Municipality may grant a long term lease of municipal immovable property with an income value of less than R10 million only after:***

- a) The Accounting Officer has approved the lease in principle;***
- b) In the case of a direct lease, the proposed lease was advertised in terms of paragraph 10.1 and 10.2 above to invite the local community and other interested parties to submit comments or representations; and***
- c) The Executive Mayor, as delegated authority, has approved that the right may be granted.”***

The Accounting Officer (Municipal Manager) approved in principle the further lease of a portion of Erf 76 Zwelihle to Nomzamo Educare Centre: subject to a public participation process being followed and further subject to the approval from the Executive Mayor. The proposed lease was advertised in The Village News on 20 November 2019 for a 30 (THIRTY) day comment/objection period.

**Paragraph 26: *“In cases where a rental amount has been approved in the annual budget of the Municipality for certain types of leases and encroachments, the approved amount will be used for purposes of determining the rental amount.”***

In this regard the rental charged will be in accordance with the tariff approved in the annual budget for non-profit organizations.

**Paragraph 36: *“All costs pertaining to a transaction, e.g. survey, advertisements, valuation, relocation or provision of services where necessary, shall be borne by the Lessee. The Municipality may, however, waive its right to claim all or any portion of the costs. Where necessary a deposit to cover the costs may be required.”***

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Nomzamo Educare Centre will pay all costs relating to the renewal of the lease agreement which in this case so far is only the advertisement costs.

**Paragraph 47: “Subject to paragraph 46 above, immovable property let by the Municipality shall be inspected at least once a year by the Municipality to ensure compliance with the terms and conditions of the agreement of sale or lease.”**

The property will be inspected by the Property Administration Department at least once a year.

**It is further confirmed that the other Conditions of Lease as stipulated in paragraph 36 – 50 of the said policy will be included in the lease agreement with the Applicant.**

**B: Advertisement/Notification**

An advertisement for the lease of a portion of Erf 76 Zwelihle ( $\pm 1,028.3\text{m}^2$  in extent) was placed in The Village News on 20 November 2019 for a 30 (THIRTY) day objection/comment period. No objections/comments were received.

**Conclusion**

With reference to the above discussion it is recommended that the lease agreement with Nomzamo Educare Centre be approved for a further period of 3 (THREE) years from 1 January 2020 at a rental amount of R147.83 (ONE HUNDRED AND FORTY SEVEN RAND AND EIGHTY THREE CENT) (VAT excluded) per month as approved in the Annual Budget for the 2019/2020 financial year.

**7. Financial Implications**

The Municipality stands to gain rental in the amount of R147.83 (ONE HUNDRED AND FORTY SEVEN RAND AND EIGHTY THREE CENT) (VAT excluded) per month where after the lease amount will escalate every year on the 1<sup>st</sup> of July in accordance with the tariffs stipulated in the Annual Budget as approved by Council, the next escalation to be on 1 July 2020. All expenses pertaining to the proposed lease will be borne by Nomzamo Educare Centre.

**8. Staff Implications**

None

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**9. Comments from other Departments, Divisions and Administrations**

**Town Planner: Mr H Olivier – (028) 313 8900**

*“The Property is Zoned Community Zone I and with Consent use for an Institution. The Creche and Childrens Home can be accommodated on this property, and any extension of leases for such activities is therefore supported by this office.”*

**Manager: Social Development: Mr G Smit – (028) 313 8035**

*“Please note that the social development department does not have any objections to request to renew the lease agreement with Nomzamo crèche.”*

**Senior Manager: Expenditure and Assets, Mr J Vorster - (028) 313 8046**

*“As this is an income generating proposal involving an institution who delivers a service to the community of Zwelihle, with no intention to dispose of the asset(s), there is no objection to the report.”*

**10. Annexures**

Annexure A: Locality Map

**RECOMMENDATION:**

1. that the lease of municipal property, being a portion of Erf 76 Zwelihle ( $\pm 1,028.3\text{m}^2$  in extent), to Nomzamo Educare Centre for the purpose of operating the Nomzamo Crèche at the rental amount of R147.83 (ONE HUNDRED AND FORTY SEVEN RAND AND EIGHTY THREE CENT) (VAT excluded) per month for a period of 3 (THREE) years as from 1 January 2020 in terms of the Administration of Immoveable Property Policy of the Overstrand Municipality, **be approved**; and
2. that the rental amount mentioned in 1 above escalate every year on the 1st of July in accordance with the tariffs stipulated in the Annual Budget as approved by Council, the next escalation to be on 1 July 2020.

|   |                            |
|---|----------------------------|
| <b>RESPONSIBLE OFFICIAL:</b>            | <b>NICOLENE LIEBENBERG</b> |
| <b>TARGET DATE FOR IMPLEMENTATION:</b>  | <b>11 MARCH 2020</b>       |
| <b>TARGET DATE TO INFORM APPLICANT:</b> | <b>31 MARCH 2020</b>       |
| <b>TARGET DATE TO INFORM OBJECTOR:</b>  | <b>N/A</b>                 |

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**A le Roux**

**Manager : Property Administration**

**7 January 2020**

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**THIS MATTER SERVED BEFORE THE JOINT PORTFOLIO COMMITTEE ON  
18 FEBRUARY 2020, WHICH COMMITTEE SUPPORTED THE RECOMMENDATION**

**RESPONSIBLE OFFICIAL:**

**N LIEBENBERG**

**TARGET DATE FOR IMPLEMENTATION:**

**11 MARCH 2020**

**TARGET DATE TO INFORM APPLICANT:**

**31 MARCH 2020**

**TARGET DATE TO INFORM OBJECTOR:**

**N/A**

